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SUBJECT: EU WILL SET UP COMMON INDEX OF CRIMINAL  
RECORDS FOR NON-EU CITIZENS

SUMMARY

1. EU Ministers for Justice, Freedom and Security (or Justice and Home Affairs - JHA Council) on April 14 agreed to set up a common EU "index" to register the criminal records of all non-EU citizens convicted in the EU countries. For their own nationals residing in the EU, Member States will proceed on the basis of mutual exchanges and the networking of national records. Ministers also committed to establish a common, uniform EU procedure aimed at enabling creditors to obtain a "swift and efficient recovery of their debts" but the system looks likely to be limited to cross-border cases. The Council addressed the future implementation of the "principle of availability" of information to become effective among EU law enforcement authorities. Immigration-related issues discussed at the meeting will be reported SEPTEL. END SUMMARY.

EXCHANGE OF INFORMATION FROM CRIMINAL RECORDS

2. The April 14 JHA Council held an orientation debate on the exchange of information from criminal records, with a view to establishing guidelines for future work. Luxembourg Justice Minister Luc Frieden told a press conference that the ministers agreed to set up a "hybrid system" for EU and non-EU nationals:

- For EU nationals residing in the EU, Member States will proceed on the basis of mutual exchanges and the interconnection of national records, with the understanding that each Member State will have to record all the convictions against its nationals pronounced by EU countries (not a requirement at present).
- For non-EU nationals, an EU index of convictions will be established that will highlight the Member State(s) involved in the conviction. A significant proportion of criminal convictions in the EU are against non-EU nationals.

3. The Commission, which initially advocated the setting up of an EU-wide index for all convictions recorded within the EU, rallied to the above Presidency proposal, described by Minister Frieden as dictated by realism but allowing for significant progress. Commission Vice-President Frattini promised concrete proposals before the EU summer break. He noted that each Member State would register the convictions pronounced against its citizens in the other countries on the basis of data provided by the state where the conviction is pronounced. The compromise thus ensured a high level of harmonization, both for EU and non-EU citizens, according to Frattini. French Justice Minister Perben was equally satisfied, noting that France, Germany, Belgium and Spain had already started to network their criminal registers in a pilot project. Perben said Poland had already expressed an interest in joining the group of four.

EUROPEAN PROCEDURE FOR PAYMENT INJUNCTIONS

4. The ministers held an orientation debate on a draft Regulation aimed at establishing a European procedure for payment injunctions. Frieden said this would enable creditors such as small-sized companies to obtain a swift and efficient recovery of their debts, thanks to the creation of "a simple, fast, low-cost and standard procedure that will settle small litigation" and called the Regulation "an important component of the European judicial

area." Frieden and other EU officials said a great majority of delegations wanted to limit the scope of the proposal to cross-border cases, implying it should not regulate payment injunctions within Member States, as the Commission suggested (though the Council's legal department reportedly concluded there was no legal basis for applying the procedure to domestic cases). The European Parliament will have a say in further discussions as the draft is subject to co-decision by the Council and the EP.

#### IMPLEMENTATION OF "PRINCIPLE OF AVAILABILITY"

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15. The Hague program for strengthening freedom, security and justice in the EU for the next five years provides that the exchange of information between law enforcement authorities should be based on the "principle of availability" as of January 1, 2008. Under this principle, described by Frieden as "a key concept for better judicial and police cooperation in Europe," the available information will have to be exchanged as quickly as possible between judicial and police authorities within the EU with the appropriate guarantees. Frieden said the best path to follow for future implementation was to first get ministers to agree on the types of information to be shared as "the system for implementing this principle may be different according to the type of information." Frieden said the Council identified six types of information: DNA data, fingerprints, ballistic data, vehicle registration, telephone numbers, and personal identification data. The Council conclusions note that the modalities for implementing the principle would be determined on the basis of several options, including a direct or indirect (via a central file) access to national police databases.

#### FIGHT AGAINST CORRUPTION

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16. In a Resolution adopted without discussion, the Council set the goals of a "comprehensive EU policy against corruption," inviting the Member States that have not done so yet to ratify and implement a series of instruments, including two COE Conventions as well as the UN Convention against Corruption. In a declaration tabled during the preparatory work, the Commission noted that the UN Convention against Corruption partially falls under the exclusive competence of the Community, and recalled that: "For this reason Member States must not ratify the Convention before the EC has done so, or has explicitly authorized them to do so."

#### ROME CONVENTION ON CONTRACTUAL OBLIGATIONS

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17. On the fringes of the meeting, the ten new Member States that joined the EU last year signed the 1980 Rome Convention on the law applicable to contractual obligations within the EU, as well as the protocols on its interpretation by the EU Court of Justice.

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